

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

***In re* FLINT WATER CASES**

**Civil Action No. 5:16-cv-10444-JEL-
(consolidated)**

Hon. Judith E. Levy

**REPORT AND RECOMMENDATION
OF THE SPECIAL MASTER REGARDING ADDITION OF
CLAIMS ADMINISTRATOR SERVICES FOR THE PARTIAL SETTLEMENT**

On July 31, 2018, under Federal Rule of Civil Procedure 53, the Court appointed Deborah E. Greenspan to serve as a Special Master. Amended Order Appointing Special Master (“Special Master Appointment Order”), ECF No. 544, PageID.16581-16590.

On January 21, 2021, the Court issued its *Opinion and Order Granting Plaintiffs’ Motion to Establish Settlement Claims Procedures and Allocation and for Preliminary Approval of Class Settlement Components [1318] and Granting Plaintiffs’ Motion for an Order Adopting the Proposed Motion for Approval of Wrongful Death Settlement [1334]*, ECF No. 1399 (“Preliminary Approval Order”). In the Preliminary Approval Order, the Court appointed Deborah Greenspan as the Special Master under the Amended Settlement Agreement (“ASA”). *Id.* at PageID.54465. In the Preliminary Order, the Court also appointed Archer Systems,

LLC as Claims, QSF, and Lien Resolution Administrator for purposes of the preliminary settlement and conditional class certification. *Id.* at PageID.54465-66.

On November 10, 2021, the Court issued its *Opinion and Order Granting Final Approval of a Partial Settlement, Granting Certification of a Settlement Class, Granting Appointment of Settlement Class Counsel [1794], Denying Objections, and Adopting the Report and Recommendation [2006]*, ECF No. 2008 (“Final Approval Order”).¹ The Final Approval Order approved the settlement (“Settlement”) reached between Plaintiffs and the Settling Defendants in the ASA (ECF No. 1394-2, PageID.54120). The Final Approval Order confirmed the appointment of Archer Systems LLC as Claims Administrator. *Id.* at PageID.69553. By separate Order dated January 21, 2021, the Court preliminarily approved the Archer fee schedule submitted as Exhibit K to Plaintiffs’ amended motion to establish settlement claims procedures and for preliminary approval of class settlement components (ECF No. 1394-16). *See Order Granting Preliminary Approval to the Archer Systems, LLC Claims, QSF, and Lien Resolution Administrator Fee Schedule [1394]*, ECF No. 1401.

¹ Unless otherwise defined herein, all capitalized terms herein have the same meaning set forth in the Amended Settlement Agreement that the Court has approved.

On January 20, 2022, the Court issued its *Order Regarding Settlement-Related Duties of the Special Master*, ECF No. 2096, PageID.71973. By this Order, the Court amended its previous Special Master Appointment Order and directed Deborah E. Greenspan to fulfill all of the duties of Special Master set forth in the ASA. *See* January 2022 Order, PageID.71975. Pursuant to the ASA and the Order Regarding Settlement Related Duties of the Special Master, the Special Master oversees various aspects of the settlement, and the Order directs the Special Master to assist the Court in its oversight role by supervising the implementation of the ASA, including, without limitation, supervision and audit of the claims administration process. *See Order Regarding Settlement-Related Duties of the Special Master*, ECF No. 2096, PageID.71975-71976.

I. The ASA's Claim Process.

Individuals and businesses who timely registered to participate in the settlement were required to submit Claim Forms and Claims Materials to recover under the settlement. *See* ASA, ECF No. 1394-2, PageID.54140-54145; Final Approval Order, ECF No. 2008, PageID.69556. The deadline for the submission of claims was June 30, 2022. *See Order Adopting the Special Master's Report and Recommendation Regarding Extension of the Claims Deadline for the Amended Settlement Agreement [2162]*, ECF No. 2163 (May 9, 2022).

The Report and Recommendation of the Special Master Regarding Extension of the Claims Deadline for the Amended Settlement Agreement, ECF No. 2162 (“Claim Deadline Extension Recommendation”) noted that the process of obtaining documents and submitting claims had proven to be more time consuming than anticipated for claimants and their counsel. Claim Deadline Extension Recommendation, ECF No. 2162, PageID.72635-37.

On August 8, 2022, I filed a Notice of the Special Master Regarding Status of Claims Process for Amended Settlement Agreement, ECF No. 2189 (Aug. 5, 2022) (“August Status Report”). The August Status Report described the large numbers of claim packets reported by the Claims Administrator that were received by the June 30, 2022 deadline, and that a substantial number of claims and supporting documents were submitted the last week before the June 30 deadline. *Id.*

At the status conference held December 21, 2022, I reported that the process of compiling, logging, verifying, identifying, and normalizing close to three million documents was time consuming and labor intensive. The claims review process could not proceed until the document intake process was completed because it is necessary to assure that all relevant documents are properly linked to the applicable claim before undertaking review. I further reported that the claimants would be sent a notice advising of the delay and the effort to deploy additional resources to help expedite the process.

The claims review process is designed to employ a claim review software “platform” to permit claims staff to review the claim forms submitted along with the supporting documents and then to set forth specific determinations on the various criteria set forth in the compensation schedule in the settlement. To enable this review process, the Claims Administrator has to extract data from claim forms and append the relevant documents to the claim review system. This process has proven to be complex. After examining the systems and reviewing an audit sample of claim records, and after conferring with the settling parties, I have noted certain limitations in that process and have concluded that to expedite the review of claims and to assure that claim records are complete, it is advisable to employ additional resources in the claims process and to implement certain procedural changes to the review protocol and systems.

II. Conclusion and Recommendation.

Accordingly, I recommend that the Court approve the engagement of two entities to design and implement revised claims management and review processes and to design additional quality control procedures. The settling parties and the Special Master interviewed five entities that have the capability to provide these services and engaged in additional conversations and meetings with these entities to confirm their ability to complete the necessary work in a cost-effective manner,

provide any necessary staff, and to begin work immediately. Based on this process, and the conclusions of the settling parties, I recommend the engagement of two entities – Wolf Garretson LLC and Alvarez & Marsal Disputes and Investigations, LLC – to provide certain defined services in connection with the claims administration process. Information about these two entities is included in Exhibit A attached hereto. The Claims Administrator appointed by the Court previously, Archer Systems, will work in conjunction with these additional resources.

The addition of these entities will help to facilitate data management and expedite the review process. The compensation for their work will be defined by separate contractual documents and compensation will be based on detailed invoices submitted to the Court for review and approval. The definition of services to be performed by each entity, and thus the compensation for each of the entities involved, will be structured to avoid duplication of effort and to assure that the overall costs are consistent with the original administrative cost estimates, recognizing that all estimates made at the outset of this process were necessarily based on assumptions about the nature and volume of work.

I have submitted with this Report for the Court's consideration a proposed Order addressing the engagement of these additional resources.

Respectfully submitted,

Date: January 31, 2023

/s/ Deborah E. Greenspan

Deborah E. Greenspan, Esq.

Special Master

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CERTIFICATE OF SERVICE

I certify that on January 31, 2023, I electronically filed the foregoing document with the Clerk of the Court using the Court's ECF system, which will send notification of such filing to attorneys of record.

Date: January 31, 2023

/s/Deborah E. Greenspan

Deborah E. Greenspan

Special Master

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